

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BRIAN BURTNETT)
26773 Cook Rd.)
Olmsted Falls, Ohio 44138)
Plaintiff,) Case No. 1:11-cv-1543
v.) JURY DEMAND REQUESTED
PROFESSIONAL RECOVERY SERVICES,) VERIFIED CIVIL COMPLAINT
INC.) (Unlawful Debt Collection Practices)
7251 Engle Rd. Plaza South One)
Middleburg Heights, Ohio 44130)
Defendant.)

VERIFIED COMPLAINT

BRIAN BURTNETT (Plaintiff), by his attorneys, KAHN AND ASSOCIATES, L.L.C., alleges the following against PROFESSIONAL RECOVERY SERVICES, INC. (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.

3. Because Defendant conducts business in Ohio, personal jurisdiction is established.
4. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

PARTIES

5. Plaintiff is a natural person who resides in Olmsted Falls, Cuyahoga County, Ohio and is allegedly obligated to pay a debt, and Plaintiff is a "consumer" as that term is defined by *15 U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in *15 U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is a debt collector with an office in Middleburg Heights, Ohio.
8. Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by *15 U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

10. Defendant calls Plaintiff on telephone number 216-392-0664.
11. Defendant places telephone calls from telephone numbers 800-309-8000 and 866-302-1102.

12. Defendant fails to inform Plaintiff that the phone call is an attempt to collect a debt and that the information obtained will be used for that purpose.
13. Defendant's agent falsely identifies himself as a "judge" to the Plaintiff in an attempt to collect the debt.
14. After being sent a written "Cease and Desist" that requested that the Defendant stop contacting the Plaintiff, Defendant called Plaintiff again.
15. Defendant called Plaintiff again even after being notified Plaintiff was represented by an attorney.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

16. Defendant violated the FDCPA based on the following:
 - a. Defendant violated §1692b by using false, misleading, or deceptive means in connection with the collection of a debt.
 - b. Defendant violated §1692(e)(11) of the FDCPA by failing to inform the Plaintiff that Defendant was a debt collector and by failing to inform the Plaintiff that information would be used to collect a debt.
 - c. Defendant violated §1692(c)(a)(2) of the FDCPA by contacting the consumer when Defendant knew or had reason to know the consumer is represented by an attorney.
 - d. Defendant violated §1692(c)(c)(3) of the FDCPA by continuing to pursue collection activity after being informed in writing that the Plaintiff wished Defendant to cease further contact.

WHEREFORE, Plaintiff, BRIAN BURTNETT respectfully requests judgment be entered against Defendant, PROFESSIONAL RECOVERY SERVICES, INC. for the following:

17. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
18. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
19. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, BRIAN BURTNETT, requests a jury trial in this case.

RESPECTFULLY SUBMITTED,

KAHN & ASSOCIATES, L.L.C.

/s/ J. Daniel Scharville
J. DANIEL SCHARVILLE (0071132)
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Attorney for Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF OHIO

Plaintiff, BRIAN BURTNELL, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.

Pursuant to 28 U.S.C. § 1746(2), I, BRIAN BURTNELL, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

7/26/11

Date


BRIAN BURTNELL